

“Sri Lanka as a Member of the United Nations”

Keynote Address by Jayantha Dhanapala

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Ministers, Excellencies, friends

With the introduction that Rama has given me as a former this and former that I am surprised that she and Neil think that I have something useful to say this evening!! But I'd like to thank them both for this invitation and for the opportunity for me to share some thoughts with you on Sri Lanka as a member of the United Nations.

I'd like to pay a special tribute to Rama, to Neil and to Omar, three newcomers to the Colombo scene, and to express my own admiration for their contribution towards strengthening the relationship between the UN and Sri Lanka, and the intellectual community and the Government of Sri Lanka which is so very important in these difficult times in our country.

In many ways this is a belated 62nd birthday celebration of the UN because on the 24th of October I believe there were celebrations in the UNDP and elsewhere to honour the fact that we have had this global organization ushered in after two of the bloodiest wars fought in the history of humankind, in order to ensure that the world is a safer and better place.

A meeting was held two years ago in the BMICH to celebrate another anniversary and that was the 50th anniversary of Sri Lanka's admission as a member of the UN. On that occasion, or perhaps slightly after that, the Foreign Ministry published this book “Sri Lanka and the United Nations: A Partnership”, to which several messages and several chapters were contributed by various personalities, including His Excellency the President of Sri Lanka. Despite the fact that I've had my advice consistently ignored for well over a year, I still remain nominally a Senior Advisor to His Excellency the President! Due to that fact, plus the importance of the message which His Excellency the President has given us in this book, I quote him, because it is very important to have an authoritative statement of Sri Lanka's relationship

with the UN. So let me cite a very important section of what His Excellency said at pages 30-31 in the paragraphs where he says,

“We live in a world of nation states. But beyond the concept of Nation State lie the common interests of humankind; the desire for a just and secure world order in which all people, in all countries, can live in peace, comfort and dignity.

The United Nations can be described as the international instrument that enables the world community to work towards this cherished goal. Sixty years since its inception, way back in 1945, it remains the cornerstone of the international system, and the strongest source of legitimacy for collective international action.

It remains the only organization in which countries with widely differing political institutions, and countries at different stages of economic development, can exchange views, share their problems and experiences, and probe each others’ reactions to policies of mutual interests. Its network is global. Its membership is essentially universal. It remains a noble organization through which all countries - rich and poor, big and small - share an equal voice and work towards evolving a world order in which there is justice and security for all.”

As I said, this is an authoritative statement of the Head of State of Sri Lanka. I thought it was a useful point of departure, because it helps to set the parameters of what I want to say today. Because this is an opportunity to examine the relationship between this unique world body which has unrivaled universality and legitimacy, having 192 member states in its fold, and Sri Lanka, a small developing country emerging out of colonialism, 450 years of it, and still engaged in trying to recover from the damage that those four and half centuries of colonialism have caused this country in terms of its economy, in terms of its society and in terms of its psyche.

So I will be thematic rather than being factual. Omar and Neil have helped me by giving you details of what the UN has contributed towards Sri Lanka’s economic development and other aspects of our country, and what it continues to do.

Let me ask first of all - *what is the UN?*

Then I want to move on and talk about *Rights and Obligations of member states*.

Thirdly, I’d like to look upon this relationship between SL and UN as *a partnership*.

Indeed this was the subtitle of the publication that was published by the Foreign Ministry: “60 years of partnership”.

Next, I want to look upon the two issues that are causing a lot of the publicity and the criticism that Neil referred to: *human rights* and the *responsibility to protect* concept that was embraced in the 60th anniversary Outcome Document of the UN General Assembly and, finally, let me conclude with a few remarks.

What is the UN?

So what indeed is the UN? Is it the Secretary General Ban Ki Moon and the faceless bureaucracy of about 4000 officials in that glass building in Manhattan? Or is it the Security Council, undemocratically constituted as it is, exercising its primary function in protecting international peace and security? Or is it the sum total of what the 192 member states stand for and their expressions through UN General Assembly resolutions which are regurgitated in every General Assembly? Or is it the work of the specialized agencies that do so much in health, in labor, in intellectual property protection and in so many other areas which are so essential in our day to day life?

In fact, it is the collective work of all of these that represent the UN. So when critics level their barbs at the UN, they should be well advised to indicate what precisely they are criticizing. Because the UN in many ways is an amorphous body, and it is what the member states make of it. Ultimately, therefore, when we criticize the UN, we must be a little more specific about what we expect the UN to do.

My favorite quotation from my favorite Secretary General, Dag Hammarskjöld, goes like this, *“The UN was not established to take humanity to heaven but to save it from hell”*.

And indeed those who expect that the UN should be a heavenly abode where you hear angels playing harps are sorely mistaken. There are some within the UN that perhaps think they are in heaven - and that again is a sorely a mistaken view. It is also a fact that the UN has saved the world from the worst calamity of another world war. We have not had a third world war since 1945 although we have had many proxy wars and many regional wars. Indeed as the Stockholm International Peace Research Institute (SIPRI) says, we have had, in 2006, about 17 major armed conflicts going on in the world, none of which are in fact inter-state wars as they are all intra state wars. And here too the UN does what it can to alleviate the humanitarian consequences of those wars. So the UN which was set up to save humanity from the scourge of war has to some extent succeeded in preventing a world war but it has not been able to prevent regional wars and regional conflicts.

I don't have a specialized knowledge on Christian theology to tell you where we are if we have not gone to heaven or have not gone to hell. Perhaps we are in what is called purgatory, and we are condemned to remain like that with a little bit of good things and a little bit of bad things - which is what life is! But basically the UN cannot play God in the world. It is not all powerful because it depends on the amount of sovereignty ceded to it by the 192 member states.

Ultimately, we live in a Westphalian world where the nation state remains the key element in international affairs and nationalism continues to be a very powerful “ism” in the world. Long after the demise of communism and, together with perhaps terrorism and consumerism, it is one of the “isms” that the UN has to

contend with. An aggressive pursuit of national interest by the 192 member states has to be contended with and woven into a tapestry of international peace and security that suits the cooperative and the common interest of all countries. And that is the huge challenge that the UN has to face. So it is fundamentally a political organization which has to, indeed as the statement of His Excellency said, represent the ideals of the world but, at the same time, has to work with all countries big and small, rich and poor and the mighty and the meek.

Now the UN is in many ways at an interface, at a cross road, between power based realism and norm based idealism. That is what poses the greatest challenge to those working within the UN. That is what is not always understood with regard to our expectations. The Charter of the UN represents one of the greatest hopes of human kind. It is the bedrock of international law. It is in fact the constitution of the United Nations and it has grand words with regard to the objectives and the principles. But fundamentally the UN is not only an organization that is there to abolish the scourge of war and to improve social and economic living standards and pursue human rights, but it is there as a centre for harmonizing the interests of all 192 member states. That is one of the primary tasks it has as far as international relations is concerned. As I said before, the UN in many ways has to reflect the political realities at the same time as reaching out to the norms it has helped to create and the norms that it must also help to implement. I think Mr. S.W.R.D Bandaranaike on the one occasion he did address the UN General Assembly, said in his speech – “ This is an organization which expresses itself most effectively by bringing to bear a certain moral force and decency of human beings.” And indeed that is the norm based idealism that I have referred to. So it is not just a question of “malaria and mosquitoes” as one former Sri Lankan Foreign Minister described the UN’s task, but much more than that seeking to expand intellectual horizons, the human spirit of humankind as well as having a practical impact on the social and economic advancement of our people throughout the world.

Rights & Obligations of member States

Let me move on to the rights and obligations of member states. I think here Article 2 of the Charter is extremely important because it talks about the principles that membership rests on. And of course one of the fundamental points is the sovereign equality of all members. But there is also Article 2.2 and I think I should quote it in full - “ All Members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfill in good faith the obligations assumed by them in accordance with the present Charter”. So it follows therefore, like in any club that you belong to, you pay your dues but you also have obligations as well as rights. And I think this is something that encapsulates the concept of partnership. As a member country, we certainly have rights. But we also have obligations. I believe that Sri Lanka has discharged its obligations in the past 50 years fully. It must continue to discharge those obligations while enjoying the rights and benefits of the UN. Now, as I said before, there is also the important right that we enjoy in the article 2.7 in terms of our being a sovereign nation state and this is the all

important issue that right now seems to be engaging the attention of the critics of UN in Sri Lanka. I will read that out to you – “ Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit the matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII”. This refers, of course, to the Security Council enforcement measures in the interests of international peace and security. So the concept of sovereignty and the non interference in the internal affairs of the member states of the UN is safeguarded by Article 2.7 .But we must also recognize that we have willingly conceded sovereignty by joining several treaties and in these treaties we have got certain obligations that we fulfill. I will go on later in this presentation to talk about our obligations under the human rights treaties and conventions which are so important to us today and which unfortunately have earned the ire of a lot of critics.

Therefore, we have to find the delicate balance between the non interference in internal affairs and the implementation of norms that are voluntarily accepted by member states. This is something that is not easily reconciled whoever the member state may be. I think its useful to go back to the Fourteen Points of President Woodrow Wilson who was one of the greatest internationalists of the US and whose vision led to the establishment of the League of Nations - flawed as it may have been. But unfortunately his vision was not matched by his own Senate who kept the US out of the League of Nations. But the Fourteen Points of President Woodrow Wilson are well worth quoting again. He talked about “a general association of nations must be formed under specific covenants for the purpose of affording mutual guarantees of political independence and territorial integrity to great and small states alike.” This was what the US President at that stage thought should be the UN and therefore, following from those Fourteen Points, President Roosevelt and others who formed the UN had very clearly in mind the importance of sovereign equality of states despite the special preferred status given to the P 5 in the Security Council with their vetoes. It was agreed that there should be no war and that no force should be used in international relations and that there should be fundamental human rights enshrined in the Charter; that there should be international law which formed the underpinning of the entire UN Charter and its implementation; that there should be better standards of life enjoyed ‘in larger freedom’ - as the words of the Charter says - ; there should be tolerance among people. There was this basic idea of a rule based world order in which all member states could share while enjoying their territorial integrity and their sovereign right to independence. So we do have rights and national interests; but there are also norms that are clearly of benefit to us living in an international world order. And a number of norms are of clear benefit to citizens enjoying their democratic rights and their human rights as individual members in various countries.

Partnership

Now let me move on the partnership aspect of Sri Lanka's relationship with the UN. A partnership is a two-way street. There is a lot of mutual benefit that both the UN and Sri Lanka have. We have heard some of that from the previous speakers. In International Law we have had Judge Weeramanthri in the International Court of Justice helping to expand our own role in international law and the formation of international law. We have had Sri Lanka represented in the International Law Commission by Chris Pinto, and now by Dr Rohan Perera, and that is a body which helps in the codification of international law that distinguishes human society that we have from the anarchy that we would descend into if we didn't have international law. We have also had the Law of the Sea to which Ambassador Shirley Amerasinghe contributed enormously through his chairmanship and to which also Ambassador Chris Pinto and Ambassador Hiran Jayawardene contributed through their own ideas with regard to the sea bed and to what should be the extent to which countries could claim their territorial zones. We have had in the area of terrorism a number of contributions made by Dr Rohan Perera who chairs the Ad hoc Committee at the moment and we are likely to have a definition of the term 'terrorism' which has eluded the international community so far.

And then in economic development, we have had a great deal of work in the UNDP itself through the work of Raju Coomaraswamy and Andrew Joseph and Dr. Gamani Corea in UNCTAD, who made such an important contribution in regard to primary commodities at a time when the Group of 77 had complained that the terms of trade were unfavorable to developing countries and when the first UNCTAD Secretary General, Raul Prebisch, helped to bring out the importance of better terms of trade for primary commodities. Gamani Corea did a great deal by helping to have commodity agreements in a number of those primary commodities. We have had help from the WHO and UNICEF and UNFPA. We have had immunization of our children undertaken by UNICEF. We have had SARS and the HIV/AIDS largely controlled thanks to the work of WHO. We hosted the AIDS conference here recently and, although we can be perhaps thankful Sri Lanka has a relatively low incidence of AIDS we must also be grateful to the UN community of agencies that helps to keep AIDS under control and to ensure that that pandemic that has wiped out 20 million people and which, in African countries alone, has eliminated an entire generation, has not been so devastating in our own country.

We have also been benefiting from the labor laws that Sri Lanka has had because in the tripartite arrangement of the International Labor Organization, we have had our employers; we have had our government; and our unions represented ensuring that we comply with basic labor laws. Our exports have never had the problem that some countries have had about child labor being used or prison labor being used or forced labor being used or about the conditions or the sweat shops that other countries have. And this is because we have been enlightened enough to comply with the norms of the International Labor Organization. In disarmament we have had a number of contributions made by Sri Lanka. President J.R. Jayawardene proposed a World Disarmament Conference. Foreign Minister Shahul Hameed played a prominent role in the Secretary-General's Advisory Board on Disarmament

Matters and participated in the First Special Session on the UN General Assembly devoted to disarmament in 1978 when he led Sri Lanka as Chairman of the Non aligned Movement. We have had Ambassador Nihal Rodrigo also working in the Advisory Board of the Secretary -General on Disarmament Matters. I was privileged to chair the NPT Review and Extension Conference which succeeded against great odds to end with a package of decisions which indefinitely extended the NPT with certain conditions attached to it. We have had, more recently, Ambassador Prasad Kariyawasam preside over a meeting of Small Arms and Light Weapons. We will go on I believe in this field because it is so important and because it is such a contribution to international peace and security.

Then in environment we have had Gamani Corea represent Sri Lanka at the very first UN environment conference in Stockholm in 1972. Thereafter, more recently, we have had Dr Mohan Munasinghe as vice-chairman of the IPCC contributing towards the very valuable studies on climate change which are likely to be summarized this week in Spain. And, of course, we have had the tragedy of the tsunami where the international community came to our rescue and in that rescue effort it was the UN family which helped us enormously.

I think one of the great publications that the UN has come out with is on the intellectual history of the UN which Richard Jolly and others produced. If you look at that there are a number of ideas that the UN has produced which have impacted on the march of human kind and which have helped developing countries like Sri Lanka. In particular I refer to the concept of Human Development which Mahbub-ul-Haq from South Asia helped to formulate. Sri Lanka has stood out in the past as an example of human development. Prior to human development we were held up for the Physical Quality of Life index. But in the Human Development Index we stand proud with regard to our achievements despite the low income that we had at the time. We have now graduated to a middle income country but there are aspects that have helped us in the past to have a very high human development index which are now in jeopardy and we must ensure that we safe guard that and build on the past.

The UN in its intellectual history has produced the concept of “sustainable development” in which we participated especially in the 1992 Rio conference and thereafter in Johannesburg

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We have contributed to the concept of “good governance” which again is a very important issue. So we have benefited enormously from these ideas because ideas matter and ideas that improve the life of people matter most. We have benefited from the direct programmes of the UN and we have also played our role in helping to formulate the norms of the UN and in the implementation of those norms.

Human Rights and the Responsibility to Protect

Now when the going gets tough we can't pick up our marbles and go home. We can't tell the UN that we don't like what they are doing and we don't like the norms that we ourselves have helped to contribute to and then go home. So let me address the core issues that seem to agitate those critics of the UN - Human rights and the "responsibility to protect" concept.

I make special mention of this because, as Neil said, they seem to be the core issues that are at the moment troubling the relationship, or the partnership, between Sri Lanka and the UN. I think it is important to know that prior to 1983 Sri Lanka was never featured in any human right forums. It was my task in 1984, when I assumed duties as Permanent Representative of Sri Lanka to the UN in Geneva, to have to face the reaction to the 1983 riots in Sri Lanka when mobs were responsible for violence which caused the deaths, suffering and burning of a number of Sri Lankan Tamils and other citizens of our country. We had to endure the criticism not only of non government organization but also of a number of friendly member countries including countries in our own region such as India. Our approach to this task was to engage constructively with our critics and to try to show that what happened in August 1983 was an aberration from the normal practice of human rights by a democratically elected government and the breakdown of government machinery on that occasion was not an indication that that was going to be a permanent feature of Sri Lankan governance. With the co-operation of the members of the Commission on Human Rights and the Sub Commissions on Human Rights, and indeed the UN Human Rights Secretariat we were able , over a period of time, to engage in a dialogue; to engage in training programs of our armed forces; to bring in ICRC - which has not been in SL prior to that - and improve the Human Rights situation in our country. We were able to also avoid condemnatory resolutions about Sri Lanka adopted in any of the fora of the UN .That was done through diplomacy and the constructive engagement with the UN body that was responsible for Human Rights. We had visits of special rapporteurs who came to Sri Lanka. They were not abused or denounced as "terrorists" and they went back, wrote their reports which we responded to. We have continued in this spirit for a very long time because under all the Human Rights instruments that we have signed, we are required to submit reports which we have done conscientiously. The members of our Government - the Attorney General's Department, the Foreign Ministry and the relevant other Ministries, including the Ministry of Justice - have gone to Geneva and New York and made representations on behalf of Sri Lankan taking on the criticism of the non government organizations and the other member states in order to show that Sri Lanka was responding positively to the criticisms that have been made about it.

No country is perfect in the observance of human rights. But we cannot be hyper sensitive to criticisms that are being made of our human rights if there are, in fact, human rights deficiencies in the country. We have to be able to rectify those deficiencies and to work with those foreign international organizations, particularly the UN bodies who are offering to help us strengthen our capacity to deal with these problems that sometimes follow, almost inevitably, when there is a conflict situation. But as you know conflicts do not result in a total derogation from the human rights

law of countries. The fact that there is a conflict requires us to maintain the Geneva conventions and the ICRC is there to help us. I have worked with the ICRC both in Geneva and elsewhere and I believe that their presence in this country today is an important indication that there is a partnership between the humanitarian agencies and ourselves in trying to improve the situation of our country and to safeguard our own citizens from the possible adverse effects of conflict breaking out here and causing a serious erosion of human rights in our country. I believe that the involvement of the UN in our human rights is part and parcel of the treaty obligations that we have entered into. We have to proceed in that spirit to ensure that we do not in any way cause a rupture in our relationship with the UN. It does not help that we abuse those who come in pursuit of their duty here to Sri Lanka on the invitation of the Government to discuss Human Rights issues. It does not help us denounce members of UN agencies as “terrorists”. The UN agencies themselves are by no means perfect. We have to be able to enter into a constructive dialogue with them if we hope to ensure that the partnership aspect with the UN is maintained.

Let me now go on to the question of “responsibility to protect”. This concept emerged in the aftermath of the Rwanda genocide which caused Kofi Anan a great deal of pain of mind because he was the Under-Secretary-General for Peace-keeping Affairs when the Rwanda genocide took place and there was a great deal of criticism of the UN about what happened. What happened to the famous telegram sent by General Dallaire who was in charge of the UN peace-keeping troops in Rwanda? Why did the Department of Peace keeping Operations not act on it? But, more importantly, why didn’t the Security Council act on it? It’s a long story and I won’t go into it now. The result is that Kofi Anan was deeply troubled and he did not want genocide to take place with the UN being unable to act or save the victims. So in 1999 in an important speech he talked about “humanitarian intervention”. Indeed he only raised the question. Was not Humanitarian Intervention necessary in order to prevent a genocide? Now, of course, we have had Humanitarian Intervention in the past which has been justified by the intervening countries. We have had Indian troops intervene in Bangladesh; we had Tanzanian troops in Uganda to liberate that country from the tyranny of Idi Amin and we have had numerous other cases all of which have been justified to one extent or the other despite the controversial violation of the national sovereignty of those countries and the blatant intervention in the internal affairs of those countries. But when Kofi Anan raised the topic of Humanitarian Intervention there was a storm of protest particularly from the developing countries, and understandably so, because the developing countries that have suffered under colonialism and imperialism did not want their national interest, their national sovereignty violated any more again. And so they reacted adversely to this concept. I know the Foreign Minister of Sri Lanka at the time - in his statement to the General Assembly - strongly criticized this in the speech he made on humanitarian intervention.

Subsequently the Government of Canada put together an International Commission on Intervention and State Sovereignty (ICISS). Their report analyzed the many instances of Humanitarian Intervention that had taken place in the past,

looked at the principal responsibility of the states to their citizens with regard to their human security and then looked at the collective responsibility under the Charter of the Security Council for the maintenance of international peace and security and came out with the concept of the “R2P” or “Responsibility to Protect”. I know that my friend and fellow commissioner on the Weapons of Mass Destruction Commission (WMDC) - Gareth Evans - caused a storm of protest in Sri Lanka when he gave the Neelan Tiruchelvam Memorial Lecture and talked about the “responsibility to protect”. I believe Minister G.L Peiris wrote against him. I think it is important to look at what the Commission itself said because the Outcome Document of the General Assembly, which was accepted by all heads of state and heads of government who attended the UN General Assembly in the year 2005, subscribed to this (and this included the then head of state and government of Sri Lanka) .We are now querying this “Responsibility to Protect” concept. I will now just read out the basic principles that the Commission came out with. It said that

“State sovereignty implies responsibility, and the primary responsibility for the protection of its people lies with the state itself. Where a population is suffering serious harm, as a result of internal war, insurgency, repression or state failure, and the state in question is unwilling or unable to halt or avert it, the principle of non intervention yields to the international responsibility to protect.”

Now this international responsibility to protect is not arbitrarily exercised by anyone in the international community. There has to be “just cause” and there have to be “precautionary principles” to ensure that the primary purpose of intervention is “to halt or avert that human suffering”. It must be also made clear that military intervention is only the last resort and can only be justified when every non military option for the prevention or peaceful resolution of the crisis has been explored “with reasonable grounds for believing lesser measures would not have succeeded”. Then we come to the right authority to exercise this “Responsibility to Protect” and that is the UN Security Council which has to authorize military intervention for human protection purposes. It is these principles that govern the implementation the ‘Responsibility to Protect’ which was endorsed by the entire international community by the Outcome Document (specifically at paras 138 and 139).It is that principle that Mr. Gareth Evans was trying to explain. Of course Mr. Gareth Evans’ views on what the Sri Lankan Government should do about our conflict situation are his own and I do not necessarily subscribe to them. In terms of the “Responsibility to Protect” which was embodied in the Outcome Document and which we as a member of the international community have accepted, I believe that this is an important principle. I read in the newspapers that Sri Lanka, as a member of the Commonwealth Ministerial Action Group, recently decided that Pakistan should be suspended and given some time to dismantle its emergency if it was to continue to remain in the Commonwealth. Now is that Humanitarian Intervention? Is that not “Responsibility to Protect” that we as a member of the Commonwealth are exercising? Are we not interfering in the internal affairs of Pakistan? Would we like the Commonwealth Ministerial Action Group, if we had a situation in Sri Lanka to act similarly? This is a question we must ask ourselves regarding Israel

and what they have done to Palestine. Have we not participated in action in the Commission of Human Rights and the new Human Rights Council, of which we are members, in condemning internal human rights? This is a question we must ask ourselves and understand that with the rights that we have as a member of the UN we also have responsibilities and duties to perform.

Let me conclude now by saying that Sir Brian Urquhart - perhaps one of the most respected veterans from the UN who worked in the UN from its inception - talked about the UN being “an embodiment of practical idealism on an international scale”. That echoes what Mr.S.W.R.D.Bandaranaike said. And that is indeed what the UN hopes to be. It may not always succeed but its member states have to ensure that it succeeds and succeeds consistently.

I think it is a salutary reminder for us to think back to the era of Madam Sirimavo Bandaranaike. It was during her period that Sri Lanka attained the zenith of its foreign policy successes. We became Chairman of the Non –aligned Movement and we were active in the G 77. All the goodwill we have acquired today is the goodwill that we acquired in the 12 years of her leadership in the Foreign Ministry and of her stewardship of our foreign policy. If we do not ourselves look sharp we will soon be running on empty! Thank you.

(Jayantha Dhanapala is a former Ambassador of Sri Lanka and a former United Nations Under-Secretary-General. He is currently the Chairman of the UN University Council and the President of the Pugwash Conferences on Science & World Affairs)